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SUBJECT: NEW LEGISLATION ON CHILD PRISONERS

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¶1. (U) Summary: Both houses of Congress have now approved the "Juvenile Justice and Welfare Act of 2006," aimed at curbing the problem of child prisoners by moving minors out of the adult criminal justice system and building more youth detention facilities. President Arroyo is slated to sign the bill into law shortly. The GRP has pledged to provide needed resources, but NGOs and others have predicted that implementation will be spotty. Mission will continue to seek additional ways to assist the GRP in tackling the child labor problem, following an S/CT-funded seminar on best prison management practices in late April. End Summary.

Passage of Bill

¶2. (U) In late March after a bicameral committee conference, both the House of Representatives and the Senate approved the Juvenile Justice and Welfare Act of 2006. After international media coverage of the problem of child prisoners in the Philippines last year (reftels), President Arroyo and legislators placed the bill, which had been pending since 1999, on the fast track for passage in September 2005. President Arroyo is expected to sign the measure into law soon.

¶3. (U) The bill's key provisions include:

-- exemption of children 15 years of age or below from criminal liability. A child between 15 and 18 years old can face criminal charges only with proof that he or she committed actions with the full knowledge that they were criminal in nature. These provisions replace the current law, under which minors as young as nine years face criminal charges. The bill's provisions will apply retroactively; officials must review the cases of minors now in the penal system and make humane adjustments;

-- newly created "Juvenile Justice and Welfare Councils," chaired by representatives of the Department of Social Welfare and Development (DSWD), will evaluate all minors in trouble with the law. Most will likely end up in "diversion programs" supervised by a local social welfare officer. These programs include counseling and attendance in training and seminars, as well as participation in community service and educational programs. If the infraction was subject to punishment of no more than six years of imprisonment, the Councils may decide on the "diversion program" without court proceedings; and,

-- prohibition of the detention of minors in adult jails

while undergoing trial. For more serious offenses, detention can be in special youth facilities, DSWD centers, or NGO-managed rehabilitation centers. The national government and local government units must under this new law set aside enough resources to establish an adequate number of youth detention facilities. The law mandates that the Philippine Charity Sweepstakes Office (a GRP entity) allocate an initial amount of 50 million pesos (roughly one million dollars) to help fund implementation.

Dealing with Child Prisoners

¶4. (U) The GRP and NGOs hope that the Juvenile Justice and Welfare Act will rationalize the treatment of minors and ensure that they do not ever again face imprisonment or detention in adult jails. According to official and NGO sources, over 1,500 minors are among the general adult prisoner population nationwide. Observers note that the real number could be far larger, given lack of information about what happens at jails in rural areas. Of the more than 1,100 jails under the management of the Bureau of Jail Management and Penology (BJMP) and the Philippine National Police, only 20 percent have separate cells for minors. In March 2006, the Department of Interior and Local Government ordered the BJMP to transfer 520 child prisoners to four youth detention facilities in Metro Manila, Cebu, and Davao.

Concerns about Implementation

¶5. (U) NGOs and others advocating for the reform of the

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juvenile justice system have predicted difficulties in the implementation of the bill, as with other worthwhile legislation on the book. According to one NGO worker, there are simply not enough youth detention facilities in place as of yet to handle "the exodus" of child prisoners out of adult jails. Additionally, there are not enough social workers to supervise these new programs. Even pro-child advocate Senator Pia Cayetano has privately expressed concern over the lack of resources available for placing minors in youth detention facilities and in other programs, although she said she highly appreciated Malacanang's recent efforts to achieve passage of the bill.

USG Efforts

¶6. (U) Through a planned project with The Asia Foundation (TAF), Mission stands ready to assist with implementation of the bill. USAID is also helping fund TAF's Jail Decongestion Project that helps the GRP deal more adequately with inmates of all ages.

¶7. (U) Mission's Law Enforcement Working Group (LEWG) is also focused on this area. With funding from S/CT, Mission has organized a prison management "best practices" seminar April 24-28 to examine a wide range of issues, including treatment of juvenile prisoners. The LEWG is also investigating how additionally to assist with training for employees at youth detention and other juvenile facilities, as well as whether the USG could assist in building a youth detention facility in Mindanao.

KENNEY